

General Information Letter: No Homeowners' Property Tax Relief rebate is payable to individual who was not eligible for a residential property tax credit for 1999.

October 26, 2000

Dear:

This will serve as a reply to your follow-up correspondence dated October 16, 2000. According to Department of Revenue ("Department") regulations, the Department may issue only two types of letter rulings: Private Letter Rulings ("PLRs") and General Information Letters ("GILs"). The regulations explaining these two types of rulings issued by the Department can be found at 2 Ill. Adm. Code sec. 1200 or on the Department's website at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

Due to the nature of your inquiry and the information presented in your letter, we are required to respond with a GIL. GILs are designed to provide background information on specific topics but are not, however, binding on the Department. In your letter, you have stated in relevant part as follows:

This is in response to your letter dated October 10, 2000. In your letter, you state that the terms of the statute [35 ILCS 5/2-208.1] are unambiguous concerning the tobacco rebate due the trustees of our trust.

The facts are the following:

1. The trustees themselves have owned these two houses as their principle (sic) residences and have paid property tax on them for many years:

xxxxxxxxxxxx and xxxxxxxxxxxxxxxxxx have resided at and paid property tax on xxxxxxxxxxxxxxxxxx, xxxxxxxx, IL xxxxx for over 50 years,

xxxxxxxxxxxx has resided at and paid property tax on xxx xxxxxxxxxxxxxx, xxxxxxxx, IL xxxxx for over 25 years.

2. xxxxxxxxxxxxxx, xxxxxxxxxxxxxx, and xxxxxxxxxxxxxxxxxx have all filed Illinois Income tax specifically, 1999 as required by the Public Act 91-703. We have consistently paid these taxes for many years. Documentation can be provided.
3. xxxxxxxxxxxxxx, xxxxxxxxxxxxxx, and xxxxxxxxxxxxxxxxi are the sole trustees of the xxxxxxxxxxxxxx, xxxxxxxxxxxxxx, and xxxxxxxxx xxxxxxxx Revocable Living Trust. As such we paid our personal property tax through the trust. (emphasis added).
4. The trust files a zero tax return each year and distributes the income to each trustee. So we can provide you with
 - a. A copy of our canceled personal checks for property tax payment

- b. A copy of the trust zeroed tax return and proof of tax payment
 - c. A copy of our 1999 Illinois State Tax Returns
 - d. Proof that these have been our primary residences for the past 25/50 years.
5. Therefore, it is unambiguous that we are entitled to the tax rebate. We have paid property tax on our primary residences for many years and we paid our property tax for our primary residences in 1999. I am requesting that you send xxxxxxxxxxxx and xxxxxxxxxxxxxxxxxxxx their rebate check for their primary residence at xxxxxxxxxxxxxxxxxxxx., xxxxxxxx, IL xxxxx, and to xxxxxxxxxxxx for his primary residence at xxx xxxxxxxxxxxxxx., xxxxxxxx, IL xxxxx.

The position stated in our October 10, 2000, letter remains unchanged. A taxpayer must have been entitled to the credit for Illinois real property taxes paid on his or her 1999 IL-1040 in order to be eligible for the "Tobacco Rebate" authorized by P.A. 91-0703. The Department is constrained to follow the terms of the statute.

Sincerely yours,

Jackson E. Donley,
Senior Counsel-Income Tax